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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,100	08/23/2004	Paul Wayne Nagy	IAC 04920 PUS	5099
25286 7590 12/13/2007 BROOKS KUSHMAN P.C. INTL. AUTOMOTIVE COMPONENTS GROUP 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			EXAMINER STERLING, AMY JO	
			ART UNIT 3632	PAPER NUMBER
			MAIL DATE 12/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/711,100

Applicant(s)

NAGY ET AL.

Examiner

Amy J. Sterling

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/28/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the **Final Office Action** for application number 10/711,100 Radio Bin Spacer, filed on 8/23/04. Claims 1-17 are pending. This **Final Office Action** is in response to applicant's reply dated 11/2/07. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action.

Claim Rejections - 35 USC § 102

Claims 1 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent Publication No. 2005/0032426 to Tanaka.

The publication to Tanaka discloses a device having a bin having one closed end (2) and open end (1) and further having a top wall with a structural rib (1d), a bottom wall and two side walls having a mounting tab (5) located on the rear wall, the tab having a bore therein, the rear end having a pair of spacer stanchions (2a, 2b) located thereon, the bin having an exterior dimension allowing mounting within an instrument panel opening designed for a larger than standard sized radio and further having interior dimension allowing mounting of a standard sized radio directly therein.

Claim Rejections - 35 USC § 103

Claims 2-7 and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Publication No. 2005/0032426 to Tanaka and in view of United States Patent No. 6330121 to Kobayashi et al.

Tanaka discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show the specific materials of plastic, polypropylene, thermoplastic olefins, butadiene and polycarbonate.

Kobayashi et al. teaches a mounting device for a optical device which is made of plastic, polypropylene, thermoplastic olefins, butadiene or polycarbonate (See Col.12 lines 24-29 for material), the materials used for their resilient and strength properties. Therefore it would have been obvious to one of ordinary skill in the art from the teachings of Kobayashi et al. to have made the device of these materials in order to have a resilient and strong device.

Claims 8, 9, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Publication No. 2005/0032426 to Tanaka and in view of United States Patent Publication No. 2005/0231954 to Czech.

Tanaka discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show the specific materials of aluminum and metal.

Czech teaches a mounting device for a optical device which is made of aluminum metal (See page 2, paragraph 0023 for material), the material used for their strength properties. Therefore it would have been obvious to one of ordinary skill in the art from

the teachings of Czech to have made the device of these materials in order to have a strong device.

Response to Arguments

The applicant has argued that the Tanaka reference fails to disclose a radio bin spacer. This is unpersuasive because the claim limitation of a "radio bin spacer" refers to a function or use of the device, which only carries patentable weight as it is delineated by its structure. In that absence of any further limitations as to what a radio bin spacer may entail, the Tanaka structure meets the structural limitations of the claims.

In response to applicant's argument that there is no suggestion to combine the references depicting different materials, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the use of an optimum or suitable material was well within the knowledge generally available at the time. Furthermore, the use of these materials, plastic and aluminum, renders a predictable result. (See KSR v. Teleflex, 550 U.S., 127 S. Ct. 1727 (2007)).

In response to applicant's argument that references are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or,

if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the making and manufacturing of items and the use of different material is well known to be the same endeavor.

Conclusion

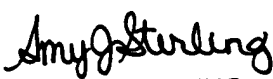
THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The fax machine number for the Technology center is 571-273-8300 (formal amendments) or 571-273-6823 (informal communications only). Any inquiry of a

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general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600.

Amy J. Sterling
Primary Examiner
11/28/07


AMY J. STERLING
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600